

¹ The Court notes that in August 2002, plaintiff's counsel attempted to file a charge with the EEOC, which was deemed deficient, not docketed and sent back to plaintiff's counsel in September 2002 for resubmission. *See* Def.'s Aff. Ex. X. However, plaintiff's counsel has failed to resubmit the EEOC charge.

has not met the heavy burden of establishing that she was prevented, in some extraordinary way, from exercising her rights to warrant bypassing the statutory prerequisite. In fact, plaintiff's counsel did attempt to file a EEOC charge, which was deemed deficient, not docketed and sent back to plaintiff's counsel for resubmission. *See* Def.'s Aff. Ex. X. However, plaintiff's counsel failed to resubmit the EEOC charge. Thus, defendant did not prevent plaintiff from filing an EEOC charge and plaintiff is not entitled to equitable leniency and bypass the statutory prerequisite of filing an EEOC charge. Accordingly, it is hereby

ORDERED that defendant's motion for summary judgment is GRANTED and plaintiff's action is summarily dismissed.

DATED: Brooklyn, New York
September 21, 2006

_____/s/_____
DORA L. IRIZARRY
United States District Judge